S.B. CIVIL WRIT PETITION NO.4866/2003

Saurabh Kumar vs. State of Raj. and other.

Date : 4.2.2005

HON'BLE MR. PRAKASH TATIA, J.

Mr. Sudhir Sharma, for the petitioner.

Mr. Shyam Ladrecha, Addl.GA, for respondents.

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Heard learned counsel for the parties.

According to learned counsel for the petitioner, the petitioner was given contract for collection of royalty for a period of two years. For this, an agreement (Annex.1) was executed on 31.3.2003. As per condition no.5 of the agreement, no royalty can be collected for Bajri used by the State Government.

According to learned counsel for the petitioner, no exemption has been granted to any contractor, therefore, it is difficult for the petitioner to find out who are the persons carrying bajri for the use of the State Government. Certain persons took bajri and when royalty is demanded by the petitioner, they merely say that the bajri is for the use of the State Government work, therefore, they are not supposed to pay the royalty.

The petitioner submitted an application before the Mining Department to transfer all amounts of royalty which they have collected from the contractor who took bajri by saying that bajri is being taken by them for the use of

work of the State Government. The petitioner by this writ petition is seeking a direction against the State Government to transfer the amount which has been collected as royalty from the contractor – respondent no.4 who is one of the contractors who took bajri without paying royalty to the petitioner. The petitioner also sought direction against the State Government to direct the respondent no.4 to deposit the amount of royalty with the petitioner.

The petitioner also submitted an application for taking on record a document which is an application of the petitioner submitted to the Assistant Mining Engineer, Bhilwara. In this application, the petitioner again requested that he be supplied the number of vehicles which are carrying bajri for the State Government and again requested to transfer the amount collected by Assistant Mining Engineer from the party referred to in the application.

Learned counsel for the respondents submitted that the respondents will consider the application of the petitioner and will pass appropriate orders.

It appears from the facts of the case that the royalty collection contract was granted to the petitioner. The petitioner is feeling helpless because some of the contractors are disclosing that they are taking bajri for the government work, hence, the petitioner cannot recover the royalty amount from them.

It is for the petitioner to manage his own affairs and

satisfy himself that from whom he can recover the royalty. It is for the petitioner to allow the transportation of bajri after taking royalty in accordance with law and permit the persons to take bajri without paying royalty who have been exempted.

In view of the above, I do not find any merit in this writ petition and the same is hereby dismissed.

However, it is made clear that the respondent department should cooperate with the petitioner and in case, the respondent department finds some substance in the representation of the petitioner, then they may consider the same and give help to the petitioner which they can give lawfully in this matter.

(PRAKASH TATIA), J.

S.Phophaliya